

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
March 20, 2007 Session

In re: ERLENE WEEMS d/b/a E & W BONDING CO.

**Direct Appeal from the Criminal Court for Davidson County
No. 2002-B-1003 Cheryl Blackburn, Judge**

No. M2006-00652-CCA-R3-CD - Filed July 6, 2007

The appellant, Erlene Weems d/b/a/ E & W Bonding Co., appeals the trial court's dismissal of its motion to nullify and void a previous order declaring the final forfeiture of bail bond in the case of criminal defendant Carlos Albert Cabellero-Grajeda. Following review of the record, we dismiss this appeal.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

J.C. McLIN, J., delivered the opinion of the court, in which JOSEPH M. TIPTON, P.J., and THOMAS T. WOODALL, J., joined.

Dale Quillen, Nashville, Tennessee, for the appellant, Erlene Weems d/b/a E & W Bonding.

Robert E. Cooper, Jr., Attorney General and Reporter; Benjamin A. Ball, Assistant Attorney General; Victor S. Johnson, III, District Attorney General; and Bret Gunn, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

I. FACTUAL BACKGROUND

The chronology of events¹ giving rise to this appeal is as follows: On April 17, 2002, Carlos Alberto Cabellero-Grajeda was arrested on a charge of money laundering. On May 17, 2002, the Davidson County Criminal Court set bail in Cabellero's case in the amount of \$100,000. On May 28, 2002, the appellant agreed to secure Cabellero's appearance before the Davidson County Criminal Court. Cabellero was then delivered by the Davidson County Sheriff's Office to the United States Immigration and Naturalization Service (INS), which had a detainer on Cabellero, a citizen

¹ The factual background is taken from this court's previous opinion in *State v. Carlos Alberto Cabellero-Grajeda (In re: Erlene Weems d/b/a/ E & W Bonding Co.)*, No. M2004-02097-CCA-R3-CD, 2005 WL 1931402 (Tenn. Crim. App., at Nashville, Aug. 11, 2005), *perm. app. denied* (Tenn. Dec. 19, 2005).

of Mexico. On June 11, 2002, the Davidson County Grand Jury indicted Cabellero for money laundering and conspiracy to deliver three hundred pounds of marijuana within one thousand feet of a school zone. INS released him on bond on June 28, 2002.

Cabellero subsequently failed to appear for trial and as a result, the trial court issued a capias for his arrest, a conditional judgment of forfeiture against the appellant, and a writ of scire facias to notify the appellant of that judgment. On September 25, 2003, the appellant filed a motion for relief, asking the court to discharge its obligation under the bail bond. The appellant's motion was denied, and the appellant appealed. On appeal, this court upheld the trial court's order on August 11, 2005.

On March 8, 2006, the appellant filed a motion "for an order nullifying and voiding all preceding orders entered in this cause." In its motion, the appellant alleged that the state had dismissed the case against Cabellero on October 6, 2005, thereby rendering the appearance bond for Cabellero moot. The appellant then requested that the trial court release it from its obligation under the bond. The appellant also submitted that the state's action in dismissing the case materially affected its rights to cause Cabellero to be taken into custody. After a hearing, the trial court denied the appellant's motion, finding that the state's dismissal of the charges against Cabellero had no bearing on its previous order of forfeiture against the appellant. The appellant now brings this appeal.

II. ANALYSIS

Upon review, we note that the technical record is devoid of the trial court's final judgment of forfeiture or other entry of monetary judgment against the appellant. The instant appeal purports to be one as of right, pursuant to Tennessee Rule of Appellate Procedure 3. However, Rule 3 provides for appeals as of right from final judgments. Tenn. R. App. P. 3. The order from which the appellant seeks relief denied the appellant's request for exoneration from the forfeiture bond. We have previously noted that an order merely denying exoneration is not equivalent to a final judgment. *See In re AB Bonding Co., Inc.*, No. M2003-02813-CCA-R3-CD, 2004 WL 2853540, *3 (Tenn. Crim. App., at Nashville, Dec. 10, 2004); *State v. Howard C. Covington (In re: Memphis Bonding Company)*, No. W2001-01575-CCA-R3-CD, 2002 WL 1592704, *2 (Tenn. Crim. App., at Jackson, July 16, 2002). Additionally, it is the appellant's duty to prepare a record that will allow for meaningful review on appeal. Tenn. R. App. P. 24(b); *State v. Ballard*, 855 S.W.2d 557, 560 (Tenn. 1993). Here, the record is devoid of documentation showing final judgment of forfeiture, remittance of payment of the bond amount, or the state's dismissal of the charges pending against Cabellero.

III. CONCLUSION

As such, based on the foregoing and record as a whole, we are unable to review the case before us and therefore dismiss the appeal.

J.C. McLIN, JUDGE